
HOUSE BILL 3159

State of Washington 59th Legislature 2006 Regular Session

By Representatives Linville, Newhouse, Grant, Kessler, Orcutt,
Chandler, Dunn and Kristiansen

Read first time 01/23/2006. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of food products; amending
2 RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050,
3 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590;
4 reenacting and amending RCW 82.04.260; adding new sections to chapter
5 82.04 RCW; providing effective dates; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
8 to read as follows:

9 (1) This chapter shall not apply to the:

10 (a) Manufacturing of dairy products; or

11 (b) Selling of manufactured dairy products to purchasers who
12 transport in the ordinary course of business the goods out of this
13 state. A person taking an exemption under this subsection (1)(b) must
14 keep and preserve records for the period required by RCW 82.32.070
15 establishing that the goods were transported by the purchaser in the
16 ordinary course of business out of this state.

17 (2) "Dairy products" means dairy products that as of September 20,
18 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,

1 including byproducts from the manufacturing of the dairy products such
2 as whey and casein.

3 (3) This section expires July 1, 2012.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
5 to read as follows:

6 (1) This chapter does not apply to the:

7 (a) Manufacturing of seafood products that remain in a raw, raw
8 frozen, or raw salted state at the completion of the manufacturing by
9 that person; or

10 (b) Selling of the manufactured seafood products that remain in a
11 raw, raw frozen, or raw salted state to purchasers who transport in the
12 ordinary course of business the goods out of this state. A person
13 taking an exemption under this subsection (1)(b) must keep and preserve
14 records for the period required by RCW 82.32.070 establishing that the
15 goods were transported by the purchaser in the ordinary course of
16 business out of this state.

17 (2) This section expires July 1, 2012.

18 **Sec. 3.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read
19 as follows:

20 (1) This chapter shall not apply to ~~((amounts received from))~~ the:

21 ~~((+1))~~ (a) Canning, preserving, freezing, processing, or
22 dehydrating fresh fruits and vegetables; or

23 ~~((+2))~~ (b) Selling at wholesale fresh fruits and vegetables
24 canned, preserved, frozen, processed, or dehydrated by the seller and
25 sold to purchasers who transport in the ordinary course of business the
26 goods out of this state. ~~((As proof of sale to a person who transports
27 in the ordinary course of business goods out of this state, the seller
28 shall annually provide a statement in a form prescribed by the
29 department and retain the statement as a business record.))~~ A person
30 taking an exemption under this subsection (1)(b) must keep and preserve
31 records for the period required by RCW 82.32.070 establishing that the
32 goods were transported by the purchaser in the ordinary course of
33 business out of this state.

34 (2) This section expires July 1, 2012.

1 **Sec. 4.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
2 each reenacted and amended to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 manufacturing:

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Beginning July 1, 2012, seafood products which remain in a raw,
12 raw frozen, or raw salted state at the completion of the manufacturing
13 by that person; as to such persons the amount of tax with respect to
14 such business shall be equal to the value of the products manufactured
15 or the gross proceeds derived from such sales, multiplied by the rate
16 of 0.138 percent;

17 (c) Beginning July 1, 2012, dairy products that as of September 20,
18 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
19 including byproducts from the manufacturing of the dairy products such
20 as whey and casein; or selling the same to purchasers who transport in
21 the ordinary course of business the goods out of state; as to such
22 persons the tax imposed shall be equal to the value of the products
23 manufactured or the gross proceeds derived from such sales multiplied
24 by the rate of 0.138 percent. ((As proof of sale to a person who
25 transports in the ordinary course of business goods out of this state,
26 the seller shall annually provide a statement in a form prescribed by
27 the department and retain the statement as a business record)) Sellers
28 must keep and preserve records for the period required by RCW 82.32.070
29 establishing that the goods were transported by the purchaser in the
30 ordinary course of business out of this state;

31 (d) Beginning July 1, 2012, fresh fruits and/or vegetables by
32 canning, preserving, freezing, processing, or dehydrating, or selling
33 at wholesale fresh fruits and vegetables canned, preserved, frozen,
34 processed, or dehydrated by the seller and sold to purchasers who
35 transport in the ordinary course of business the goods out of this
36 state; as to such persons the amount of tax with respect to such
37 business shall be equal to the value of the products manufactured or
38 the gross proceeds derived from such sales multiplied by the rate of

1 0.138 percent. Sellers must keep and preserve records for the period
2 required by RCW 82.32.070 establishing that the goods were transported
3 by the purchaser in the ordinary course of business out of this state;

4 ~~((d))~~ (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
5 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as
6 to such persons the amount of tax with respect to the business shall be
7 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
8 feedstock manufactured, multiplied by the rate of 0.138 percent; and

9 ~~((e))~~ (f) Alcohol fuel or wood biomass fuel, as those terms are
10 defined in RCW 82.29A.135; as to such persons the amount of tax with
11 respect to the business shall be equal to the value of alcohol fuel or
12 wood biomass fuel manufactured, multiplied by the rate of 0.138
13 percent.

14 (2) Upon every person engaging within this state in the business of
15 splitting or processing dried peas; as to such persons the amount of
16 tax with respect to such business shall be equal to the value of the
17 peas split or processed, multiplied by the rate of 0.138 percent.

18 (3) Upon every nonprofit corporation and nonprofit association
19 engaging within this state in research and development, as to such
20 corporations and associations, the amount of tax with respect to such
21 activities shall be equal to the gross income derived from such
22 activities multiplied by the rate of 0.484 percent.

23 (4) Upon every person engaging within this state in the business of
24 slaughtering, breaking and/or processing perishable meat products
25 and/or selling the same at wholesale only and not at retail; as to such
26 persons the tax imposed shall be equal to the gross proceeds derived
27 from such sales multiplied by the rate of 0.138 percent.

28 (5) Upon every person engaging within this state in the business of
29 acting as a travel agent or tour operator; as to such persons the
30 amount of the tax with respect to such activities shall be equal to the
31 gross income derived from such activities multiplied by the rate of
32 0.275 percent.

33 (6) Upon every person engaging within this state in business as an
34 international steamship agent, international customs house broker,
35 international freight forwarder, vessel and/or cargo charter broker in
36 foreign commerce, and/or international air cargo agent; as to such
37 persons the amount of the tax with respect to only international

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.275 percent.

3 (7) Upon every person engaging within this state in the business of
4 stevedoring and associated activities pertinent to the movement of
5 goods and commodities in waterborne interstate or foreign commerce; as
6 to such persons the amount of tax with respect to such business shall
7 be equal to the gross proceeds derived from such activities multiplied
8 by the rate of 0.275 percent. Persons subject to taxation under this
9 subsection shall be exempt from payment of taxes imposed by chapter
10 82.16 RCW for that portion of their business subject to taxation under
11 this subsection. Stevedoring and associated activities pertinent to
12 the conduct of goods and commodities in waterborne interstate or
13 foreign commerce are defined as all activities of a labor, service or
14 transportation nature whereby cargo may be loaded or unloaded to or
15 from vessels or barges, passing over, onto or under a wharf, pier, or
16 similar structure; cargo may be moved to a warehouse or similar holding
17 or storage yard or area to await further movement in import or export
18 or may move to a consolidation freight station and be stuffed,
19 unstuffed, containerized, separated or otherwise segregated or
20 aggregated for delivery or loaded on any mode of transportation for
21 delivery to its consignee. Specific activities included in this
22 definition are: Wharfage, handling, loading, unloading, moving of
23 cargo to a convenient place of delivery to the consignee or a
24 convenient place for further movement to export mode; documentation
25 services in connection with the receipt, delivery, checking, care,
26 custody and control of cargo required in the transfer of cargo;
27 imported automobile handling prior to delivery to consignee; terminal
28 stevedoring and incidental vessel services, including but not limited
29 to plugging and unplugging refrigerator service to containers,
30 trailers, and other refrigerated cargo receptacles, and securing ship
31 hatch covers.

32 (8) Upon every person engaging within this state in the business of
33 disposing of low-level waste, as defined in RCW 43.145.010; as to such
34 persons the amount of the tax with respect to such business shall be
35 equal to the gross income of the business, excluding any fees imposed
36 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

37 If the gross income of the taxpayer is attributable to activities

1 both within and without this state, the gross income attributable to
2 this state shall be determined in accordance with the methods of
3 apportionment required under RCW 82.04.460.

4 (9) Upon every person engaging within this state as an insurance
5 agent, insurance broker, or insurance solicitor licensed under chapter
6 48.17 RCW; as to such persons, the amount of the tax with respect to
7 such licensed activities shall be equal to the gross income of such
8 business multiplied by the rate of 0.484 percent.

9 (10) Upon every person engaging within this state in business as a
10 hospital, as defined in chapter 70.41 RCW, that is operated as a
11 nonprofit corporation or by the state or any of its political
12 subdivisions, as to such persons, the amount of tax with respect to
13 such activities shall be equal to the gross income of the business
14 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
15 percent thereafter. The moneys collected under this subsection shall
16 be deposited in the health services account created under RCW
17 43.72.900.

18 (11)(a) Beginning October 1, 2005, upon every person engaging
19 within this state in the business of manufacturing commercial
20 airplanes, or components of such airplanes, as to such persons the
21 amount of tax with respect to such business shall, in the case of
22 manufacturers, be equal to the value of the product manufactured, or in
23 the case of processors for hire, be equal to the gross income of the
24 business, multiplied by the rate of:

25 (i) 0.4235 percent from October 1, 2005, through the later of June
26 30, 2007, or the day preceding the date final assembly of a
27 superefficient airplane begins in Washington state, as determined under
28 RCW 82.32.550; and

29 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
30 date final assembly of a superefficient airplane begins in Washington
31 state, as determined under RCW 82.32.550.

32 (b) Beginning October 1, 2005, upon every person engaging within
33 this state in the business of making sales, at retail or wholesale, of
34 commercial airplanes, or components of such airplanes, manufactured by
35 that person, as to such persons the amount of tax with respect to such
36 business shall be equal to the gross proceeds of sales of the airplanes
37 or components multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through the later of June
2 30, 2007, or the day preceding the date final assembly of a
3 superefficient airplane begins in Washington state, as determined under
4 RCW 82.32.550; and

5 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
6 date final assembly of a superefficient airplane begins in Washington
7 state, as determined under RCW 82.32.550.

8 (c) For the purposes of this subsection (11), "commercial
9 airplane," "component," and "final assembly of a superefficient
10 airplane" have the meanings given in RCW 82.32.550.

11 (d) In addition to all other requirements under this title, a
12 person eligible for the tax rate under this subsection (11) must report
13 as required under RCW 82.32.545.

14 (e) This subsection (11) does not apply after the earlier of: July
15 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
16 does not begin by December 31, 2007, as determined under RCW 82.32.550.

17 **Sec. 5.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read
18 as follows:

19 (1) The legislature finds that accountability and effectiveness are
20 important aspects of setting tax policy. In order to make policy
21 choices regarding the best use of limited state resources the
22 legislature needs information on how a tax incentive is used.

23 (2) Each person claiming a tax exemption under RCW 82.04.4266,
24 section 1 of this act, or section 2 of this act shall report
25 information to the department by filing a complete annual survey. The
26 survey is due by March 31st of the year following any calendar year in
27 which a tax exemption under RCW 82.04.4266, section 1 of this act, or
28 section 2 of this act is taken. The department may extend the due date
29 for timely filing of annual surveys under this section as provided in
30 RCW 82.32.590. The survey shall include the amount of tax exemption
31 taken. The survey shall also include the following information for
32 employment positions in Washington:

33 (a) The number of total employment positions;

34 (b) Full-time, part-time, and temporary employment positions as a
35 percent of total employment;

36 (c) The number of employment positions according to the following
37 wage bands: Less than thirty thousand dollars; thirty thousand dollars

1 or greater, but less than sixty thousand dollars; and sixty thousand
2 dollars or greater. A wage band containing fewer than three
3 individuals may be combined with another wage band; and

4 (d) The number of employment positions that have employer-provided
5 medical, dental, and retirement benefits, by each of the wage bands.

6 The first survey filed under this subsection shall also include
7 information for the twelve-month period immediately before first use of
8 a tax incentive.

9 (3) The department may request additional information necessary to
10 measure the results of the exemption program, to be submitted at the
11 same time as the survey.

12 (4) All information collected under this section, except the amount
13 of the tax exemption taken, is deemed taxpayer information under RCW
14 82.32.330. Information on the amount of tax exemption taken is not
15 subject to the confidentiality provisions of RCW 82.32.330.

16 (5) If a person fails to submit an annual survey under subsection
17 (2) of this section by the due date of the (~~report~~) survey or any
18 extension under RCW 82.32.590, the department shall declare the amount
19 of taxes exempted for the previous calendar year to be immediately due
20 and payable. The department shall assess interest, but not penalties,
21 on the amounts due under this section. The amount due shall be
22 calculated using a rate of 0.138 percent. The interest shall be
23 assessed at the rate provided for delinquent taxes under this chapter,
24 retroactively to the date the exemption was claimed, and shall accrue
25 until the taxes for which the exemption was claimed are repaid. This
26 information is not subject to the confidentiality provisions of RCW
27 82.32.330.

28 (6) The department shall use the information from this section to
29 prepare summary descriptive statistics by category. No fewer than
30 three taxpayers shall be included in any category. The department
31 shall report these statistics to the legislature each year by September
32 1st.

33 (7) The department shall study the tax exemption authorized in RCW
34 82.04.4266, section 1 of this act, and section 2 of this act. The
35 department shall submit a report to the finance committee of the house
36 of representatives and the ways and means committee of the senate by
37 December 1, 2011. The report shall measure the effect of the exemption

1 on job creation, job retention, company growth, the movement of firms
2 or the consolidation of firms' operations into the state, and such
3 other factors as the department selects.

4 **Sec. 6.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Applicant" means a person applying for a tax deferral under
9 this chapter.

10 (2) "Cold storage warehouse" means a storage warehouse (~~used~~)
11 owned or operated by a wholesaler or third-party warehouser as those
12 terms are defined in RCW 82.08.820 to store fresh and/or frozen
13 perishable fruits or vegetables, dairy products, seafood products, or
14 any combination thereof, at a desired temperature to maintain the
15 quality of the product for orderly marketing.

16 (3) "Dairy product" means dairy products that as of September 20,
17 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
18 including byproducts from the manufacturing of the dairy products such
19 as whey and casein.

20 (4) "Dairy product manufacturing" means manufacturing, as defined
21 in RCW 82.04.120, of dairy products.

22 (5) "Department" means the department of revenue.

23 (~~(4)~~) (6) "Eligible investment project" means an investment in
24 qualified buildings or qualified machinery and equipment, including
25 labor and services rendered in the planning, installation, and
26 construction of the project. The lessor or owner of a qualified
27 building is not eligible for a deferral unless (a) the underlying
28 ownership of the buildings, machinery, and equipment vests exclusively
29 in the same person; or (b)(i) the lessor by written contract agrees to
30 pass the economic benefit of the deferral to the lessee in the form of
31 reduced rent payments, and (ii) the lessee that receives the economic
32 benefit of the deferral agrees in writing with the department to
33 complete the annual survey under RCW 82.74.040. The economic benefit
34 of the deferral to the lessee may be evidenced by any type of payment,
35 credit, or any other financial arrangement between the lessor or owner
36 of the qualified building and the lessee.

1 (~~(5)~~) (7) "Fresh fruit and vegetable processing" means
2 manufacturing as defined in RCW 82.04.120 which consists of the
3 canning, preserving, freezing, processing, or dehydrating fresh fruits
4 and/or vegetables.

5 (~~(6)~~) (8)(a) "Initiation of construction" means the date that a
6 building permit is issued under the building code adopted under RCW
7 19.27.031 for:

8 (i) Construction of the qualified building, if the underlying
9 ownership of the building vests exclusively with the person receiving
10 the economic benefit of the deferral;

11 (ii) Construction of the qualified building, if the economic
12 benefits of the deferral are passed to a lessee as provided in
13 subsection (~~(4)~~) (6) of this section; or

14 (iii) Tenant improvements for a qualified building, if the economic
15 benefits of the deferral are passed to a lessee as provided in
16 subsection (~~(4)~~) (6) of this section.

17 (b) "Initiation of construction" does not include soil testing,
18 site clearing and grading, site preparation, or any other related
19 activities that are initiated before the issuance of a building permit
20 for the construction of the foundation of the building.

21 (c) If the investment project is a phased project, "initiation of
22 construction" applies separately to each phase.

23 (~~(7)~~) (9) "Person" has the meaning given in RCW 82.04.030.

24 (~~(8)~~) (10) "Qualified buildings" means construction of new
25 structures, and expansion or renovation of existing structures for the
26 purpose of increasing floor space or production capacity used for fresh
27 fruit and vegetable processing, dairy product manufacturing, seafood
28 product manufacturing, cold storage (~~warehouse~~) warehousing, and
29 research and development activities, including plant offices and
30 warehouses or other facilities for the storage of raw material or
31 finished goods if such facilities are an essential or an integral part
32 of a factory, plant, or laboratory used for fresh fruit and vegetable
33 processing, dairy product manufacturing, seafood product manufacturing,
34 cold storage warehousing, or research and development. If a building
35 is used partly for fresh fruit and vegetable processing, dairy product
36 manufacturing, seafood product manufacturing, cold storage warehousing,
37 or research and development and partly for other purposes, the

1 applicable tax deferral shall be determined by apportionment of the
2 costs of construction under rules adopted by the department.

3 ~~((+9))~~ (11) "Qualified machinery and equipment" means all
4 industrial and research fixtures, equipment, and support facilities
5 that are an integral and necessary part of a fresh fruit and vegetable
6 processing, dairy product manufacturing, seafood product manufacturing,
7 cold storage warehouse, or research and development operation.
8 "Qualified machinery and equipment" includes: Computers; software;
9 data processing equipment; laboratory equipment; manufacturing
10 components such as belts, pulleys, shafts, and moving parts; molds,
11 tools, and dies; operating structures; and all equipment used to
12 control or operate the machinery.

13 ~~((+10))~~ (12) "Recipient" means a person receiving a tax deferral
14 under this chapter.

15 ~~((+11))~~ (13) "Research and development" means the development,
16 refinement, testing, marketing, and commercialization of a product,
17 service, or process related to fresh fruit and vegetable processing,
18 dairy product manufacturing, seafood product manufacturing, or cold
19 storage warehousing before commercial sales have begun. As used in
20 this subsection, "commercial sales" excludes sales of prototypes or
21 sales for market testing if the total gross receipts from such sales of
22 the product, service, or process do not exceed one million dollars.

23 (14) "Seafood product" means any edible marine fish and shellfish
24 that remains in a raw, raw frozen, or raw salted state.

25 (15) "Seafood product manufacturing" means the manufacturing, as
26 defined in RCW 82.04.120, of seafood products.

27 **Sec. 7.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read
28 as follows:

29 (1) The department shall issue a sales and use tax deferral
30 certificate for state and local sales and use taxes ~~((due))~~ imposed or
31 authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible
32 investment project if the investment project is undertaken for the
33 purpose of fresh fruit and vegetable processing, dairy product
34 manufacturing, seafood product manufacturing, cold storage warehousing,
35 or research and development.

36 (2) This section expires July 1, 2012.

1 **Sec. 8.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read
2 as follows:

3 (1)(a) The legislature finds that accountability and effectiveness
4 are important aspects of setting tax policy. In order to make policy
5 choices regarding the best use of limited state resources the
6 legislature needs information on how a tax incentive is used.

7 (b) Each recipient of a deferral granted under this chapter shall
8 complete an annual survey. If the economic benefits of the deferral
9 are passed to a lessee as provided in RCW 82.74.010(~~((4))~~) (6), the
10 lessee shall complete the annual survey and the applicant is not
11 required to complete the annual survey. The survey is due by March
12 31st of the year following the calendar year in which the investment
13 project is certified by the department as having been operationally
14 complete and each of the seven succeeding calendar years. The
15 department may extend the due date for timely filing of annual surveys
16 under this section as provided in RCW 82.32.590. The survey shall
17 include the amount of tax deferred. The survey shall also include the
18 following information for employment positions in Washington:

19 (i) The number of total employment positions;

20 (ii) Full-time, part-time, and temporary employment positions as a
21 percent of total employment;

22 (iii) The number of employment positions according to the following
23 wage bands: Less than thirty thousand dollars; thirty thousand dollars
24 or greater, but less than sixty thousand dollars; and sixty thousand
25 dollars or greater. A wage band containing fewer than three
26 individuals may be combined with another wage band; and

27 (iv) The number of employment positions that have employer-provided
28 medical, dental, and retirement benefits, by each of the wage bands.

29 (c) The department may request additional information necessary to
30 measure the results of the deferral program, to be submitted at the
31 same time as the survey.

32 (d) All information collected under this subsection, except the
33 amount of the tax deferral taken, is deemed taxpayer information under
34 RCW 82.32.330. Information on the amount of tax deferral taken is not
35 subject to the confidentiality provisions of RCW 82.32.330 and may be
36 disclosed to the public upon request.

37 (e) The department shall use the information from this section to
38 prepare summary descriptive statistics by category. No fewer than

1 three taxpayers shall be included in any category. The department
2 shall report these statistics to the legislature each year by September
3 1st.

4 (f) The department shall also use the information to study the tax
5 deferral program authorized under this chapter. The department shall
6 report to the legislature by December 1, 2011. The report shall
7 measure the effect of the program on job creation, (~~the number of jobs~~
8 ~~created for residents of eligible areas,~~) company growth, the
9 introduction of new products, the diversification of the state's
10 economy, growth in research and development investment, the movement of
11 firms or the consolidation of firms' operations into the state, and
12 such other factors as the department selects.

13 (2)(a) If a recipient of the deferral fails to complete the annual
14 survey required under subsection (1) of this section by the date due or
15 any extension under RCW 82.32.590, twelve and one-half percent of the
16 deferred tax shall be immediately due. If the economic benefits of the
17 deferral are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~)
18 (6), the lessee shall be responsible for payment to the extent the
19 lessee has received the economic benefit. The department shall assess
20 interest, but not penalties, on the amounts due under this section.
21 The interest shall be assessed at the rate provided for delinquent
22 taxes under chapter 82.32 RCW, and shall accrue until the amounts due
23 are repaid.

24 (b) A recipient who must repay deferred taxes under RCW
25 82.74.050(2) because the department has found that an investment
26 project is used for purposes other than fresh fruit and vegetable
27 processing, dairy product manufacturing, seafood product manufacturing,
28 cold storage warehousing, or research and development is no longer
29 required to file annual surveys under this section beginning on the
30 date an investment project is used for nonqualifying purposes.

31 **Sec. 9.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read
32 as follows:

33 (1) Except as provided in subsection (2) of this section, taxes
34 deferred under this chapter need not be repaid.

35 (2) If, on the basis of survey under RCW 82.74.040 or other
36 information, the department finds that an investment project is used
37 for purposes other than fresh fruit and vegetable processing, dairy

1 product manufacturing, seafood product manufacturing, cold storage
2 warehousing, or research and development at any time during the
3 calendar year in which the investment project is certified by the
4 department as having been operationally completed, or at any time
5 during any of the seven succeeding calendar years, a portion of
6 deferred taxes shall be immediately due according to the following
7 schedule:

8

9	Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
10	1	100%
11	2	87.5%
12	3	75%
13	4	62.5%
14	5	50%
15	6	37.5%
16	7	25%
17	8	12.5%

18 (3) The department shall assess interest, but not penalties, on the
19 deferred taxes under subsection (2) of this section. The interest
20 shall be assessed at the rate provided for delinquent taxes under
21 chapter 82.32 RCW, retroactively to the date of deferral, and shall
22 accrue until the deferred taxes are repaid. The debt for deferred
23 taxes will not be extinguished by insolvency or other failure of the
24 recipient. Transfer of ownership does not terminate the deferral. The
25 deferral is transferred, subject to the successor meeting the
26 eligibility requirements of this chapter, for the remaining periods of
27 the deferral.

28 (4) Notwithstanding subsection (2) of this section, deferred taxes
29 on the following need not be repaid:

30 (a) Machinery and equipment, and sales of or charges made for labor
31 and services, which at the time of purchase would have qualified for
32 exemption under RCW 82.08.02565; and

33 (b) Machinery and equipment which at the time of first use would
34 have qualified for exemption under RCW 82.12.02565.

1 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read
2 as follows:

3 (1) Wholesalers or third-party warehouse owners who own or operate
4 warehouses or grain elevators and retailers who own or operate
5 distribution centers, and who have paid the tax levied by RCW 82.08.020
6 on:

7 (a) Material-handling and racking equipment, and labor and services
8 rendered in respect to installing, repairing, cleaning, altering, or
9 improving the equipment; or

10 (b) Construction of a warehouse or grain elevator, including
11 materials, and including service and labor costs,
12 are eligible for an exemption in the form of a remittance. The amount
13 of the remittance is computed under subsection (3) of this section and
14 is based on the state share of sales tax.

15 (2) For purposes of this section and RCW 82.12.820:

16 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

17 (b) "Construction" means the actual construction of a warehouse or
18 grain elevator that did not exist before the construction began.
19 "Construction" includes expansion if the expansion adds at least two
20 hundred thousand square feet of additional space to an existing
21 warehouse or additional storage capacity of at least one million
22 bushels to an existing grain elevator. "Construction" does not include
23 renovation, remodeling, or repair;

24 (c) "Department" means the department of revenue;

25 (d) "Distribution center" means a warehouse that is used
26 exclusively by a retailer solely for the storage and distribution of
27 finished goods to retail outlets of the retailer. "Distribution
28 center" does not include a warehouse at which retail sales occur;

29 (e) "Finished goods" means tangible personal property intended for
30 sale by a retailer or wholesaler. "Finished goods" does not include
31 agricultural products stored by wholesalers, third-party warehouses, or
32 retailers if the storage takes place on the land of the person who
33 produced the agricultural product. "Finished goods" does not include
34 logs, minerals, petroleum, gas, or other extracted products stored as
35 raw materials or in bulk;

36 (f) "Grain elevator" means a structure used for storage and
37 handling of grain in bulk;

1 (g) "Material-handling equipment and racking equipment" means
2 equipment in a warehouse or grain elevator that is primarily used to
3 handle, store, organize, convey, package, or repackage finished goods.
4 The term includes tangible personal property with a useful life of one
5 year or more that becomes an ingredient or component of the equipment,
6 including repair and replacement parts. The term does not include
7 equipment in offices, lunchrooms, restrooms, and other like space,
8 within a warehouse or grain elevator, or equipment used for
9 nonwarehousing purposes. "Material-handling equipment" includes but is
10 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
11 place units, cranes, hoists, mechanical arms, and robots; mechanized
12 systems, including containers that are an integral part of the system,
13 whose purpose is to lift or move tangible personal property; and
14 automated handling, storage, and retrieval systems, including computers
15 that control them, whose purpose is to lift or move tangible personal
16 property; and forklifts and other off-the-road vehicles that are used
17 to lift or move tangible personal property and that cannot be operated
18 legally on roads and streets. "Racking equipment" includes, but is not
19 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
20 pallets, and other containers and storage devices that form a necessary
21 part of the storage system;

22 (h) "Person" has the meaning given in RCW 82.04.030;

23 (i) "Retailer" means a person who makes "sales at retail" as
24 defined in chapter 82.04 RCW of tangible personal property;

25 (j) "Square footage" means the product of the two horizontal
26 dimensions of each floor of a specific warehouse. The entire footprint
27 of the warehouse shall be measured in calculating the square footage,
28 including space that juts out from the building profile such as loading
29 docks. "Square footage" does not mean the aggregate of the square
30 footage of more than one warehouse at a location or the aggregate of
31 the square footage of warehouses at more than one location;

32 (k) "Third-party warehouser" means a person taxable under RCW
33 82.04.280(4);

34 (l) "Warehouse" means an enclosed building or structure in which
35 finished goods are stored. A warehouse building or structure may have
36 more than one storage room and more than one floor. Office space,
37 lunchrooms, restrooms, and other space within the warehouse and
38 necessary for the operation of the warehouse are considered part of the

1 warehouse as are loading docks and other such space attached to the
2 building and used for handling of finished goods. Landscaping and
3 parking lots are not considered part of the warehouse. A storage yard
4 is not a warehouse, nor is a building in which manufacturing takes
5 place; and

6 (m) "Wholesaler" means a person who makes "sales at wholesale" as
7 defined in chapter 82.04 RCW of tangible personal property, but
8 "wholesaler" does not include a person who makes sales exempt under RCW
9 82.04.330.

10 (3)(a) A person claiming an exemption from state tax in the form of
11 a remittance under this section must pay the tax imposed by RCW
12 82.08.020. The buyer may then apply to the department for remittance
13 of all or part of the tax paid under RCW 82.08.020. For grain
14 elevators with bushel capacity of one million but less than two
15 million, the remittance is equal to fifty percent of the amount of tax
16 paid. For warehouses with square footage of two hundred thousand or
17 more and for grain elevators with bushel capacity of two million or
18 more, the remittance is equal to one hundred percent of the amount of
19 tax paid for qualifying construction, materials, service, and labor,
20 and fifty percent of the amount of tax paid for qualifying material-
21 handling equipment and racking equipment, and labor and services
22 rendered in respect to installing, repairing, cleaning, altering, or
23 improving the equipment.

24 (b) The department shall determine eligibility under this section
25 based on information provided by the buyer and through audit and other
26 administrative records. The buyer shall on a quarterly basis submit an
27 information sheet, in a form and manner as required by the department
28 by rule, specifying the amount of exempted tax claimed and the
29 qualifying purchases or acquisitions for which the exemption is
30 claimed. The buyer shall retain, in adequate detail to enable the
31 department to determine whether the equipment or construction meets the
32 criteria under this section: Invoices; proof of tax paid; documents
33 describing the material-handling equipment and racking equipment;
34 location and size of warehouses and grain elevators; and construction
35 invoices and documents.

36 (c) The department shall on a quarterly basis remit exempted
37 amounts to qualifying persons who submitted applications during the
38 previous quarter.

1 (4) Warehouses, grain elevators, and material-handling equipment
2 and racking equipment for which an exemption, credit, or deferral has
3 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
4 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
5 remittance under this section. Warehouses and grain elevators upon
6 which construction was initiated before May 20, 1997, are not eligible
7 for a remittance under this section.

8 (5) The lessor or owner of a warehouse or grain elevator is not
9 eligible for a remittance under this section unless the underlying
10 ownership of the warehouse or grain elevator and the material-handling
11 equipment and racking equipment vests exclusively in the same person,
12 or unless the lessor by written contract agrees to pass the economic
13 benefit of the remittance to the lessee in the form of reduced rent
14 payments.

15 **Sec. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
16 read as follows:

17 (1) Wholesalers or third-party warehouseurs who own or operate
18 warehouses or grain elevators and retailers who own or operate
19 distribution centers, and who have paid the tax levied by RCW 82.08.020
20 on:

21 (a) Material-handling and racking equipment, and labor and services
22 rendered in respect to installing, repairing, cleaning, altering, or
23 improving the equipment; or

24 (b) Construction of a warehouse or grain elevator, including
25 materials, and including service and labor costs,
26 are eligible for an exemption in the form of a remittance. The amount
27 of the remittance is computed under subsection (3) of this section and
28 is based on the state share of sales tax.

29 (2) For purposes of this section and RCW 82.12.820:

30 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

31 (b) "Cold storage warehouse" (~~(means a storage warehouse used to~~
32 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
33 ~~combination thereof, at a desired temperature to maintain the quality~~
34 ~~of the product for orderly marketing)) has the meaning provided in RCW
35 82.74.010;~~

36 (c) "Construction" means the actual construction of a warehouse or
37 grain elevator that did not exist before the construction began.

1 "Construction" includes expansion if the expansion adds at least
2 twenty-five thousand square feet of additional space to an existing
3 cold storage warehouse, at least two hundred thousand square feet of
4 additional space to an existing warehouse other than a cold storage
5 warehouse, or additional storage capacity of at least one million
6 bushels to an existing grain elevator. "Construction" does not include
7 renovation, remodeling, or repair;

8 (d) "Department" means the department of revenue;

9 (e) "Distribution center" means a warehouse that is used
10 exclusively by a retailer solely for the storage and distribution of
11 finished goods to retail outlets of the retailer. "Distribution
12 center" does not include a warehouse at which retail sales occur;

13 (f) "Finished goods" means tangible personal property intended for
14 sale by a retailer or wholesaler. "Finished goods" does not include
15 agricultural products stored by wholesalers, third-party warehouses, or
16 retailers if the storage takes place on the land of the person who
17 produced the agricultural product. "Finished goods" does not include
18 logs, minerals, petroleum, gas, or other extracted products stored as
19 raw materials or in bulk;

20 (g) "Grain elevator" means a structure used for storage and
21 handling of grain in bulk;

22 (h) "Material-handling equipment and racking equipment" means
23 equipment in a warehouse or grain elevator that is primarily used to
24 handle, store, organize, convey, package, or repackage finished goods.
25 The term includes tangible personal property with a useful life of one
26 year or more that becomes an ingredient or component of the equipment,
27 including repair and replacement parts. The term does not include
28 equipment in offices, lunchrooms, restrooms, and other like space,
29 within a warehouse or grain elevator, or equipment used for
30 nonwarehousing purposes. "Material-handling equipment" includes but is
31 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
32 place units, cranes, hoists, mechanical arms, and robots; mechanized
33 systems, including containers that are an integral part of the system,
34 whose purpose is to lift or move tangible personal property; and
35 automated handling, storage, and retrieval systems, including computers
36 that control them, whose purpose is to lift or move tangible personal
37 property; and forklifts and other off-the-road vehicles that are used
38 to lift or move tangible personal property and that cannot be operated

1 legally on roads and streets. "Racking equipment" includes, but is not
2 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
3 pallets, and other containers and storage devices that form a necessary
4 part of the storage system;

5 (i) "Person" has the meaning given in RCW 82.04.030;

6 (j) "Retailer" means a person who makes "sales at retail" as
7 defined in chapter 82.04 RCW of tangible personal property;

8 (k) "Square footage" means the product of the two horizontal
9 dimensions of each floor of a specific warehouse. The entire footprint
10 of the warehouse shall be measured in calculating the square footage,
11 including space that juts out from the building profile such as loading
12 docks. "Square footage" does not mean the aggregate of the square
13 footage of more than one warehouse at a location or the aggregate of
14 the square footage of warehouses at more than one location;

15 (l) "Third-party warehouse" means a person taxable under RCW
16 82.04.280(4);

17 (m) "Warehouse" means an enclosed building or structure in which
18 finished goods are stored. A warehouse building or structure may have
19 more than one storage room and more than one floor. Office space,
20 lunchrooms, restrooms, and other space within the warehouse and
21 necessary for the operation of the warehouse are considered part of the
22 warehouse as are loading docks and other such space attached to the
23 building and used for handling of finished goods. Landscaping and
24 parking lots are not considered part of the warehouse. A storage yard
25 is not a warehouse, nor is a building in which manufacturing takes
26 place; and

27 (n) "Wholesaler" means a person who makes "sales at wholesale" as
28 defined in chapter 82.04 RCW of tangible personal property, but
29 "wholesaler" does not include a person who makes sales exempt under RCW
30 82.04.330.

31 (3)(a) A person claiming an exemption from state tax in the form of
32 a remittance under this section must pay the tax imposed by RCW
33 82.08.020. The buyer may then apply to the department for remittance
34 of all or part of the tax paid under RCW 82.08.020. For grain
35 elevators with bushel capacity of one million but less than two
36 million, the remittance is equal to fifty percent of the amount of tax
37 paid. For warehouses with square footage of two hundred thousand or
38 more, other than cold storage warehouses, and for grain elevators with

1 bushel capacity of two million or more, the remittance is equal to one
2 hundred percent of the amount of tax paid for qualifying construction,
3 materials, service, and labor, and fifty percent of the amount of tax
4 paid for qualifying material-handling equipment and racking equipment,
5 and labor and services rendered in respect to installing, repairing,
6 cleaning, altering, or improving the equipment. For cold storage
7 warehouses with square footage of twenty-five thousand or more, the
8 remittance is equal to one hundred percent of the amount of tax paid
9 for qualifying construction, materials, service, and labor, and one
10 hundred percent of the amount of tax paid for qualifying material-
11 handling equipment and racking equipment, and labor and services
12 rendered in respect to installing, repairing, cleaning, altering, or
13 improving the equipment.

14 (b) The department shall determine eligibility under this section
15 based on information provided by the buyer and through audit and other
16 administrative records. The buyer shall on a quarterly basis submit an
17 information sheet, in a form and manner as required by the department
18 by rule, specifying the amount of exempted tax claimed and the
19 qualifying purchases or acquisitions for which the exemption is
20 claimed. The buyer shall retain, in adequate detail to enable the
21 department to determine whether the equipment or construction meets the
22 criteria under this section: Invoices; proof of tax paid; documents
23 describing the material-handling equipment and racking equipment;
24 location and size of warehouses and grain elevators; and construction
25 invoices and documents.

26 (c) The department shall on a quarterly basis remit exempted
27 amounts to qualifying persons who submitted applications during the
28 previous quarter.

29 (4) Warehouses, grain elevators, and material-handling equipment
30 and racking equipment for which an exemption, credit, or deferral has
31 been or is being received under chapter 82.60, (~~(82.617)~~) 82.62, or
32 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
33 remittance under this section. Warehouses and grain elevators upon
34 which construction was initiated before May 20, 1997, are not eligible
35 for a remittance under this section.

36 (5) The lessor or owner of a warehouse or grain elevator is not
37 eligible for a remittance under this section unless the underlying
38 ownership of the warehouse or grain elevator and the material-handling

1 equipment and racking equipment vests exclusively in the same person,
2 or unless the lessor by written contract agrees to pass the economic
3 benefit of the remittance to the lessee in the form of reduced rent
4 payments.

5 **Sec. 12.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
6 read as follows:

7 (1) Wholesalers or third-party warehouseers who own or operate
8 warehouses or grain elevators and retailers who own or operate
9 distribution centers, and who have paid the tax levied by RCW 82.08.020
10 on:

11 (a) Material-handling and racking equipment, and labor and services
12 rendered in respect to installing, repairing, cleaning, altering, or
13 improving the equipment; or

14 (b) Construction of a warehouse or grain elevator, including
15 materials, and including service and labor costs,
16 are eligible for an exemption in the form of a remittance. The amount
17 of the remittance is computed under subsection (3) of this section and
18 is based on the state share of sales tax.

19 (2) For purposes of this section and RCW 82.12.820:

20 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

21 (b) (~~"Cold storage warehouse" means a storage warehouse used to~~
22 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
23 ~~combination thereof, at a desired temperature to maintain the quality~~
24 ~~of the product for orderly marketing;~~

25 ~~(c))~~ "Construction" means the actual construction of a warehouse
26 or grain elevator that did not exist before the construction began.
27 "Construction" includes expansion if the expansion adds (~~at least~~
28 ~~twenty five thousand square feet of additional space to an existing~~
29 ~~cold storage warehouse,~~) at least two hundred thousand square feet of
30 additional space to an existing warehouse (~~other than a cold storage~~
31 ~~warehouse,~~) or additional storage capacity of at least one million
32 bushels to an existing grain elevator. "Construction" does not include
33 renovation, remodeling, or repair;

34 (~~(d))~~ (c) "Department" means the department of revenue;

35 (~~(e))~~ (d) "Distribution center" means a warehouse that is used
36 exclusively by a retailer solely for the storage and distribution of

1 finished goods to retail outlets of the retailer. "Distribution
2 center" does not include a warehouse at which retail sales occur;
3 ~~((f))~~ (e) "Finished goods" means tangible personal property
4 intended for sale by a retailer or wholesaler. "Finished goods" does
5 not include agricultural products stored by wholesalers, third-party
6 warehouses, or retailers if the storage takes place on the land of the
7 person who produced the agricultural product. "Finished goods" does
8 not include logs, minerals, petroleum, gas, or other extracted products
9 stored as raw materials or in bulk;
10 ~~((g))~~ (f) "Grain elevator" means a structure used for storage and
11 handling of grain in bulk;
12 ~~((h))~~ (g) "Material-handling equipment and racking equipment"
13 means equipment in a warehouse or grain elevator that is primarily used
14 to handle, store, organize, convey, package, or repackage finished
15 goods. The term includes tangible personal property with a useful life
16 of one year or more that becomes an ingredient or component of the
17 equipment, including repair and replacement parts. The term does not
18 include equipment in offices, lunchrooms, restrooms, and other like
19 space, within a warehouse or grain elevator, or equipment used for
20 nonwarehousing purposes. "Material-handling equipment" includes but is
21 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
22 place units, cranes, hoists, mechanical arms, and robots; mechanized
23 systems, including containers that are an integral part of the system,
24 whose purpose is to lift or move tangible personal property; and
25 automated handling, storage, and retrieval systems, including computers
26 that control them, whose purpose is to lift or move tangible personal
27 property; and forklifts and other off-the-road vehicles that are used
28 to lift or move tangible personal property and that cannot be operated
29 legally on roads and streets. "Racking equipment" includes, but is not
30 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
31 pallets, and other containers and storage devices that form a necessary
32 part of the storage system;
33 ~~((i))~~ (h) "Person" has the meaning given in RCW 82.04.030;
34 ~~((j))~~ (i) "Retailer" means a person who makes "sales at retail"
35 as defined in chapter 82.04 RCW of tangible personal property;
36 ~~((k))~~ (j) "Square footage" means the product of the two
37 horizontal dimensions of each floor of a specific warehouse. The
38 entire footprint of the warehouse shall be measured in calculating the

1 square footage, including space that juts out from the building profile
2 such as loading docks. "Square footage" does not mean the aggregate of
3 the square footage of more than one warehouse at a location or the
4 aggregate of the square footage of warehouses at more than one
5 location;

6 ~~((+l))~~ (k) "Third-party warehouser" means a person taxable under
7 RCW 82.04.280(4);

8 ~~((+m))~~ (l) "Warehouse" means an enclosed building or structure in
9 which finished goods are stored. A warehouse building or structure may
10 have more than one storage room and more than one floor. Office space,
11 lunchrooms, restrooms, and other space within the warehouse and
12 necessary for the operation of the warehouse are considered part of the
13 warehouse as are loading docks and other such space attached to the
14 building and used for handling of finished goods. Landscaping and
15 parking lots are not considered part of the warehouse. A storage yard
16 is not a warehouse, nor is a building in which manufacturing takes
17 place; and

18 ~~((+n))~~ (m) "Wholesaler" means a person who makes "sales at
19 wholesale" as defined in chapter 82.04 RCW of tangible personal
20 property, but "wholesaler" does not include a person who makes sales
21 exempt under RCW 82.04.330.

22 (3)(a) A person claiming an exemption from state tax in the form of
23 a remittance under this section must pay the tax imposed by RCW
24 82.08.020. The buyer may then apply to the department for remittance
25 of all or part of the tax paid under RCW 82.08.020. For grain
26 elevators with bushel capacity of one million but less than two
27 million, the remittance is equal to fifty percent of the amount of tax
28 paid. For warehouses with square footage of two hundred thousand or
29 more(~~, other than cold storage warehouses,~~) and for grain elevators
30 with bushel capacity of two million or more, the remittance is equal to
31 one hundred percent of the amount of tax paid for qualifying
32 construction, materials, service, and labor, and fifty percent of the
33 amount of tax paid for qualifying material-handling equipment and
34 racking equipment, and labor and services rendered in respect to
35 installing, repairing, cleaning, altering, or improving the equipment.
36 ~~((For cold storage warehouses with square footage of twenty five
37 thousand or more, the remittance is equal to one hundred percent of the
38 amount of tax paid for qualifying construction, materials, service, and~~

1 labor, and one hundred percent of the amount of tax paid for qualifying
2 material handling equipment and racking equipment, and labor and
3 services rendered in respect to installing, repairing, cleaning,
4 altering, or improving the equipment.)

5 (b) The department shall determine eligibility under this section
6 based on information provided by the buyer and through audit and other
7 administrative records. The buyer shall on a quarterly basis submit an
8 information sheet, in a form and manner as required by the department
9 by rule, specifying the amount of exempted tax claimed and the
10 qualifying purchases or acquisitions for which the exemption is
11 claimed. The buyer shall retain, in adequate detail to enable the
12 department to determine whether the equipment or construction meets the
13 criteria under this section: Invoices; proof of tax paid; documents
14 describing the material-handling equipment and racking equipment;
15 location and size of warehouses and grain elevators; and construction
16 invoices and documents.

17 (c) The department shall on a quarterly basis remit exempted
18 amounts to qualifying persons who submitted applications during the
19 previous quarter.

20 (4) Warehouses, grain elevators, and material-handling equipment
21 and racking equipment for which an exemption, credit, or deferral has
22 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
23 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
24 remittance under this section. Warehouses and grain elevators upon
25 which construction was initiated before May 20, 1997, are not eligible
26 for a remittance under this section.

27 (5) The lessor or owner of a warehouse or grain elevator is not
28 eligible for a remittance under this section unless the underlying
29 ownership of the warehouse or grain elevator and the material-handling
30 equipment and racking equipment vests exclusively in the same person,
31 or unless the lessor by written contract agrees to pass the economic
32 benefit of the remittance to the lessee in the form of reduced rent
33 payments.

34 **Sec. 13.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to
35 read as follows:

36 (1) Wholesalers or third-party warehouse operators who own or operate

1 warehouses or grain elevators, and retailers who own or operate
2 distribution centers, and who have paid the tax levied under RCW
3 82.12.020 on:

4 (a) Material-handling equipment and racking equipment and labor and
5 services rendered in respect to installing, repairing, cleaning,
6 altering, or improving the equipment; or

7 (b) Materials incorporated in the construction of a warehouse or
8 grain elevator, are eligible for an exemption on tax paid in the form
9 of a remittance or credit against tax owed. The amount of the
10 remittance or credit is computed under subsection (2) of this section
11 and is based on the state share of use tax.

12 (2)(a) A person claiming an exemption from state tax in the form of
13 a remittance under this section must pay the tax imposed by RCW
14 82.12.020 to the department. The person may then apply to the
15 department for remittance of all or part of the tax paid under RCW
16 82.12.020. For grain elevators with bushel capacity of one million but
17 less than two million, the remittance is equal to fifty percent of the
18 amount of tax paid. For warehouses with square footage of two hundred
19 thousand or more(~~(, other than cold storage warehouses,)~~) and for grain
20 elevators with bushel capacity of two million or more, the remittance
21 is equal to one hundred percent of the amount of tax paid for
22 qualifying construction materials, and fifty percent of the amount of
23 tax paid for qualifying material-handling equipment and racking
24 equipment. (~~(For cold storage warehouses with square footage of
25 twenty five thousand or more, the remittance is equal to one hundred
26 percent of the amount of tax paid for qualifying construction,
27 materials, service, and labor, and one hundred percent of the amount of
28 tax paid for qualifying material handling equipment and racking
29 equipment, and labor and services rendered in respect to installing,
30 repairing, cleaning, altering, or improving the equipment.)~~)

31 (b) The department shall determine eligibility under this section
32 based on information provided by the buyer and through audit and other
33 administrative records. The buyer shall on a quarterly basis submit an
34 information sheet, in a form and manner as required by the department
35 by rule, specifying the amount of exempted tax claimed and the
36 qualifying purchases or acquisitions for which the exemption is
37 claimed. The buyer shall retain, in adequate detail to enable the
38 department to determine whether the equipment or construction meets the

1 criteria under this section: Invoices; proof of tax paid; documents
2 describing the material-handling equipment and racking equipment;
3 location and size of warehouses, if applicable; and construction
4 invoices and documents.

5 (c) The department shall on a quarterly basis remit or credit
6 exempted amounts to qualifying persons who submitted applications
7 during the previous quarter.

8 (3) Warehouse, grain elevators, and material-handling equipment and
9 racking equipment for which an exemption, credit, or deferral has been
10 or is being received under chapter 82.60, (~~82.61~~) 82.62, or 82.63
11 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
12 remittance under this section. Materials incorporated in warehouses
13 and grain elevators upon which construction was initiated prior to May
14 20, 1997, are not eligible for a remittance under this section.

15 (4) The lessor or owner of the warehouse or grain elevator is not
16 eligible for a remittance or credit under this section unless the
17 underlying ownership of the warehouse or grain elevator and material-
18 handling equipment and racking equipment vests exclusively in the same
19 person, or unless the lessor by written contract agrees to pass the
20 economic benefit of the exemption to the lessee in the form of reduced
21 rent payments.

22 (5) The definitions in RCW 82.08.820 apply to this section.

23 **Sec. 14.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
24 read as follows:

25 (1) Persons required to file surveys under RCW 82.04.4452,
26 82.32.610, or 82.74.040 must electronically file with the department
27 all surveys, returns, and any other forms or information the department
28 requires in an electronic format as provided or approved by the
29 department(~~(, unless the department grants relief under subsection (2)~~
30 ~~of this section)~~). As used in this section, "returns" has the same
31 meaning as "return" in RCW 82.32.050.

32 (2) (~~Upon request, the department may relieve a person of the~~
33 ~~obligations in subsection (1) of this section if the person's taxes~~
34 ~~have been reduced a cumulative total of less than one thousand dollars~~
35 ~~from all of the credits, exemptions, or preferential business and~~
36 ~~occupation tax rates, for which a person is required to file an annual~~

1 survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,
2 82.32.560, 82.60.070, or 82.63.020.

3 ~~(3) Persons who no longer qualify for relief under subsection (2)~~
4 ~~of this section will be notified in writing by the department and must~~
5 ~~comply with subsection (1) of this section by the date provided in the~~
6 ~~notice.~~

7 (4)) Any survey, return, or any other form or information required
8 to be filed in an electronic format under subsection (1) of this
9 section is not filed until received by the department in an electronic
10 format.

11 (3) The department may waive the electronic filing requirement in
12 subsection (1) of this section for good cause shown.

13 **Sec. 15.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
14 read as follows:

15 (1) If the department finds that the failure of a taxpayer to file
16 an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the
17 due date was the result of circumstances beyond the control of the
18 taxpayer, the department shall extend the time for filing the survey.
19 Such extension shall be for a period of thirty days from the date the
20 department issues its written notification to the taxpayer that it
21 qualifies for an extension under this section. The department may
22 grant additional extensions as it deems proper.

23 (2) In making a determination whether the failure of a taxpayer to
24 file an annual survey by the due date was the result of circumstances
25 beyond the control of the taxpayer, the department shall be guided by
26 rules adopted by the department for the waiver or cancellation of
27 penalties when the underpayment or untimely payment of any tax was due
28 to circumstances beyond the control of the taxpayer.

29 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in this
30 section, this act takes effect July 1, 2006.

31 (2) Sections 6 through 9 and 11 of this act take effect July 1,
32 2007.

33 (3) Sections 12 and 13 of this act take effect July 1, 2012.

34 NEW SECTION. **Sec. 17.** Section 10 of this act expires July 1,
35 2007.

1 NEW SECTION. **Sec. 18.** Section 11 of this act expires July 1,
2 2012.

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